

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

ANTHONY AKRIDGE,

Appellant,

v.

DEPARTMENT OF SOCIAL AND HEALTH
SERVICES,

Respondent.

) Case No. SEP-01-0001

)
) FINDINGS OF FACT, CONCLUSIONS OF
) LAW AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and GERALD L. MORGEN, Vice Chair. The hearing was held at the office of the Personnel Appeals Board in Olympia, Washington, on January 28, 2003. René Ewing, Member, was present at the hearing but resigned from her position effective March 14, 2003.

1.2 **Appearances.** Appellant Anthony Akridge was present and was represented by Edward Earl Younglove III, Attorney at Law, of Parr & Younglove, P.L.L.C. Anne Shaw, Assistant Attorney General, represented Respondent Department of Social and Health Services.

1.3 **Nature of Appeal.** This is an appeal from a non-disciplinary separation pursuant to WAC 356-30-012.

1.4 **Citations Discussed.** Engrossed Substitute Senate Bill 5605, Chapter 296, Laws of 2001; and WAC 356-30-012.

II. BACKGROUND

2.1 The Legislature passed Engrossed Substitute Senate Bill (ESSB) 5605 during the 2001 Regular Session. Upon signature by the Governor, ESSB 5605 became effective on July 22, 2001. Chapter 296, Laws of 2001. The intent of the Legislature stated in the bill is to authorize the Department of Social and Health Services to investigate the background of current and future department employees to the same extent and with the same effect as it has authorized the state to investigate the background and exclude from the provision of service current and future care providers, contractors, volunteers, and others. DSHS was also directed to work with the Department of Personnel to develop rules that address the procedures for undertaking background checks, and specifically what action would be taken against a current employee who is disqualified from his or her current position because of a background check not previously performed. § 1, Ch. 296, L. 2001.

2.2 Chapter 43.20A RCW provides for the general governance of DSHS and specifies the powers and duties of the Secretary. RCW 43.20A.710, as amended by § 5, Ch. 296, L. 2001, provides, in part:

(1) The secretary shall investigate the conviction records, pending charges and disciplinary board final decisions of:

(a) Any current employee or applicant seeking or being considered for any position with the department who will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities. ...

(2) The investigation may include an examination of state and national criminal identification data. The secretary shall use the information solely for the purpose of determining the character, suitability, and competence of these applicants.

(6) Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose.

1 2.3 RCW 41.06.475 directs the Personnel Resources Board (PRB) to adopt rules, in cooperation
2 with the DSHS Secretary, for the background investigation of persons being *considered* for
3 employment in positions directly responsible for the supervision, care, or treatment on children or
4 developmentally disabled persons. In ESSB 5606, the Legislature directed the PRB to amend any
5 existing rules established under RCW 41.06.475 and adopt rules developed in cooperation and
6 agreement with DSHS “to implement the provisions of this act.” §6, Ch. 296, L. 2001, codified as
7 RCW 41.06.476.

8
9 2.4 The PRB adopted WAC 356-30-012 to implement the background check law, effective
10 October 14, 2001, following adoption of emergency rules on July 25, 2001. The rule outlines the
11 process the DSHS Secretary must follow to conduct background checks on all employees in
12 covered positions and applicants for covered positions. A covered position is “one in which a
13 person will or may have unsupervised access to children, vulnerable adults, or individuals with
14 mental illness or developmental disabilities.” WAC 356-30-012(1).

15 2.5 The scope and standard of review for employee background checks is described in WAC
16 356-30-012(4), which states in relevant part:

17
18 The secretary of the department of social and health services shall use the results
19 of a background check solely to determine the character, competence and
20 suitability of a person for a covered position. The background check information
21 shall consist of:

- 22 (a) Conviction records, pending charges, and disciplinary board final decisions.
23 (b) Evidence that substantiates or mitigates convictions, pending charges, and
24 disciplinary board final decisions including, but not limited to:
25 (i) The employee[’s] ...background check authorization and disclosure form;
26 (ii) The employee[’s].... age at the time of conviction, charge, or disciplinary
board final decision;
(iii) The nature and severity of the conviction, charge, or disciplinary board final
decision;
(iv) The length of time since the conviction, charge or disciplinary board final
decision;
(v) The nature and number of previous offenses;

1 (vi) Vulnerability of the child, vulnerable adult, or individual with mental illness
2 or developmental disabilities to which the employee ... will or may have
3 unsupervised access; and
4 (vii) The relationship between the nature of the conviction, pending charge, or
5 disciplinary board final decision and the duties of the employee....

6 2.6 WAC 356-30-012(5) authorizes the following actions when a permanent employee is
7 disqualified from remaining in covered position:

- 8 (a) Job restructuring;
- 9 (b) Job reassignment;
- 10 (c) Voluntary demotion;
- 11 (d) Voluntary resignation;
- 12 (e) Nondisciplinary separation. The employee shall be separated by the appointing authority
13 after fifteen calendar days written notice unless the employee requests a shorter notice
14 period.
- 15 (f) Disciplinary actions for any of the causes listed in WAC 356-34-010; and/or
- 16 (g) Interim measures that may be used while the appointing authority explores the
17 availability of actions (not to exceed 30 calendar days except in cases where there are
18 investigations of pending charges):
- 19 (i) Voluntary use of accrued vacation, exchange and or compensatory time.
- 20 (ii) Authorized leave without pay, if there is no paid leave available, or if the employee
21 chooses not to use paid leave.
- 22 (iii) Reassignment to another work location.
- 23 (h) When considering the above actions, the agency will consider the least restrictive means
24 necessary to prevent unsupervised access.

25 2.7 DSHS has adopted Personnel Policy 532. The purpose of Policy 532 is to establish “criteria
26 and requirements the Department of Social and Health Services (DSHS) uses when conducting
background checks on covered positions.” DSHS adopted revisions to Personnel Policy 532 on
September 1, 2001 consistent with WAC 356-30-012. Personnel Policy 532 applies to all DSHS
employees serving in covered positions.

27 2.8 DSHS created the Background Assessment Review Team (BART) to review background
28 checks on current employees and to ensure fairness and consistency in the application of Policy
29 532. BART is comprised of one representative from each DSHS administration as well as two

1 employee union representatives. The Department of Social and Health Services is currently
2 organized into eight separate “administrations”: Executive, Aging and Disability Services,
3 Children’s, Economic Services, Health and Rehabilitative Services, Juvenile Rehabilitation,
4 Management Services, and Medical Assistance.

5
6 2.9 The DSHS Secretary conferred “appointing authority” status on BART for the purpose of
7 making final decisions on appointments, separations and reassignments of employees based on
8 background check results.

9
10 2.10 BART assigned the review of alternative actions under WAC 356-30-012(5) to the
11 appointing authority at the local or institution level. BART concluded that the appointing authority
12 at an individual institution had the necessary information to explore whether employment
13 alternatives existed for a disqualified employee.

14
15 2.11 Personnel Policy 532, Section VI B, requires that BART attempt to find a suitable non-
16 covered position within the employee’s current administration before considering positions in other
17 administrations.

18
19 2.12 The DSHS Background Check Central Unit (BCCU) is responsible for developing and
20 maintaining the procedures used by hiring supervisors and appointing authorities when requesting
21 background checks for covered positions. DSHS developed a Background Authorization Form,
22 which advises employees that by signing the form, they are authorizing the BCCU to obtain
23 conviction records from Washington and other states, including licensing information and any
24 determination or finding of abuse, neglect, exploitation or abandonment. Employees also
25 acknowledge their understanding that the results of the background check will be used to determine
26 their eligibility to be employed in covered positions.

1
2 2.13 On September 7, 2001, DSHS Secretary Dennis Braddock, issued a memorandum to all
3 DSHS employees notifying them that the department was required to complete background checks
4 on all current employees serving in covered positions.

5 6 **III. FINDINGS OF FACT**

7 3.1 Appellant Anthony Akridge was a Juvenile Rehabilitation Counselor Assistant and
8 permanent employee of Respondent Department of Social and Health Services. Appellant and
9 Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder,
10 Titles 356 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on
11 December 24, 2001.

12
13 3.2 Appellant began his employment at Echo Glen Children's Center (EGCC) in December
14 1995. EGCC houses younger male offenders and a majority of all female offenders committed to
15 the Juvenile Rehabilitation Administration (JRA). EGCC provides basic education, vocational
16 training, health care, offense-specific treatment, and recreational programs to youth offenders.

17
18 3.3 Nehemiah Mead is the Superintendent of Echo Glen Children's Center, and he is the
19 appointing authority for the institution.

20
21 3.4 In October 2001, Appellant's position at EGCC was designated as a covered position
22 because of the necessary contact with vulnerable children.

23
24 3.5 On October 12, 2001, Appellant signed a background authorization form. Appellant was the
25 first DSHS employee to undergo the background check implemented as a result of ESSB 5605.

1 3.6 On October 12, 2001, Superintendent Mead notified Appellant of his immediate
2 reassignment to home based on information he provided in the background authorization form that
3 reflected he had convictions for potentially disqualifying crimes.

4
5 3.7 On October 16, 2001, BCCU notified Appellant of his potentially disqualifying record and
6 gave him seven calendar days from the date he received the memo to provide BCCU information
7 that might mitigate the background check information. The memo indicated that the background
8 check process would proceed on the 8th day from when he signed the return receipt for the certified
9 letter.

10
11 3.8 Appellant signed for the certified letter from BCCU on October 17, 2001, and he responded
12 by sending a mitigating information packet to the BCCU.

13
14 3.9 Phil Wozniak is the Acting Director of the Human Resources Division of DSHS, and he is
15 the chairperson of BART. On October 24, 2001, Mr. Wozniak and other members of BART
16 reviewed Appellant's criminal record. Based on Appellant's record of convictions, BART made the
17 decision that Appellant was disqualified from working in a "covered position."

18
19 3.10 On October 25, 2001, the BCCU received Appellant's mitigation packet. Mr. Wozniak
20 credibly testified that he and other members of BART reviewed the information Appellant
21 submitted, however, it did not persuade them to change the team's determination to disqualify
22 Appellant from working in a covered position. BART's decision did not disqualify Appellant from
23 working in other non-covered positions with DSHS.

24
25 3.11 On November 1, 2001, the BCCU issued the following written determination to Appellant:
26

1 After consideration of the result of the DSHS background check, it has been
2 determined that you are disqualified from working in a position that allows
3 unsupervised access to children, juveniles or vulnerable adults. You will receive
4 a separate letter of notification from your appointing authority regarding the
5 specific action to be taken.

6 3.12 Superintendent Mead received a copy of the November 1, 2001 notice from the BCCU.
7 After reviewing BART's recommendation to disqualify Appellant from working in a covered
8 position, Superintendent Mead undertook a review of Appellant's position to determine whether he
9 could restructure Appellant's position or whether he could reassign Appellant. However,
10 Superintendent Mead concluded that these were not feasible options because all positions at Echo
11 Glen have contact with juveniles and are designated as "covered positions."

12 3.13 Appellant did not receive a copy of BCCU's November 1, 2001 notice, however, the
13 department sent a copy to his union representative, at her request, on December 12, 2001.

14 3.14 By letter dated November 15, 2001, Superintendent Mead notified Appellant of his non-
15 disciplinary separation from his position as a Juvenile Rehabilitation Counselor Assistant (JRCA),
16 effective November 30, 2001. Superintendent Mead informed Appellant that neither job
17 restructuring nor job reassignment were options due to the nature of his job as a Juvenile
18 Rehabilitation Counselor Assistant. He also informed Appellant of the option to voluntarily resign.
19 Superintendent Mead referred Appellant to Sue Thomas, Human Resource Manager, if he wished to
20 pursue a voluntary demotion to a position not covered by Personnel Policy 532. Superintendent
21 Mead advised Appellant that he could make a request to the Department of Personnel for his name
22 to be placed on certain agency promotional registers as long as he did so within three years of the
23 effective date of the action.
24
25
26

1 3.15 On November 20, 2001, DSHS adopted a State Employee Background Check Procedures
2 form. The document sets out the internal steps taken during the employee background check
3 process. The document, in pertinent part, describes the search procedures to be undertaken when
4 looking for a non-covered position after an employee has been disqualified from remaining in a
5 covered position but who may continue to work for DSHS:

- 6 a. First, searches within employee's current DSHS administration, limited to
7 employee's current county.
- 8 b. Second, searches within employee's current DSHS administration, limited to
9 employee's current region.
- 10 c. Third, searches within any DSHS administration, limited to employee's current
11 county.
- 12 d. Fourth, searches within any DSHS administration, limited to employee's
13 current region.

14 3.16 On November 28, 2001, Appellant contacted Ms. Thomas to indicate his interest in
15 obtaining other employment within DSHS.

16 3.17 On November 28, 2001, Ms. Thomas generated a search of vacant, funded positions at or
17 below Appellant's salary range in the Juvenile Rehabilitation Administration in King County that
18 were not "covered positions." At Appellant's request, Ms. Thomas also ran the same search for
19 vacancies in Pierce County. At the time of Appellant's vacancy search, Ms. Thomas' practice was
20 to only run one vacancy search in the county where the employee worked. Ms. Thomas concluded
21 that the vacancy search did not result in any available positions that could be offered to Appellant.

22 3.18 On November 29, 2001, Appellant submitted an updated employment application to Ms.
23 Thomas. Appellant indicated in the application material that he was willing to work any fulltime
24 shift in King, Pierce or Thurston Counties.

1 3.19 Ms. Thomas did not generate a vacancy search for Thurston County, and she did not
2 generate any further vacancy searches.

4 **IV. ARGUMENTS OF THE PARTIES**

5 4.1 Respondent argues that BART had the authority to review an employee's criminal history,
6 to consider mitigating information and to make a final determination. Respondent argues that in
7 Appellant's case, BART undertook the appropriate steps and ultimately concluded that he could not
8 remain in a covered position. Respondent argues that Appellant was subsequently notified that he
9 was disqualified from working in a position that allowed unsupervised access to children.

10 Respondent argues that BART had the authority to delegate to the superintendent of EGCC
11 the task of determining whether other options, such as job reassignment or job restructuring, were
12 viable options. Respondent argues that in this case, the superintendent was unable to reassign
13 Appellant or restructure any job at EGCC because all the positions were covered positions.

14 Respondent argues that the vacancy search Ms. Thomas performed was appropriate and that
15 she went beyond the county in which Appellant was employed by running a search in Pierce
16 County. Respondent argues that the agency was not required to search in any other counties, but
17 did so as a courtesy to Appellant. Respondent argues that the vacancy search ultimately revealed no
18 available uncovered positions for which Appellant was qualified.

19 Respondent recognizes that the agency's process changed slightly as it went along, but
20 argues that the agency, nonetheless, provided Appellant with all rights required by the statute, merit
21 system rules and agency policy.

22
23 4.2 Appellant argues that BART's ultimate decision was to disqualify him from remaining in a
24 covered position. Appellant also argues that BART determined that he could remain employed by
25 DSHS in a non-covered position. Appellant argues, however, that DSHS failed to take sufficient
26 steps to implement BART's decision to retain him as an employee. Appellant contends there is no

1 evidence to support that BART reviewed his mitigation packet. Appellant argues that BART did
2 not have the authority to delegate to Mr. Mead the ability to terminate his employment, but rather
3 that Policy 532 vests that authority in BART.

4 Appellant argues that he made every effort to retain his employment with DSHS, but the
5 department failed to run the review for the entire two-week period, instead, generating a search on
6 one day and for only King and Pierce Counties. Appellant also questions whether the vacancy
7 search should have occurred prior to separating him.

8 Appellant claims that because he was the first individual to come before BART, his case
9 was handled differently than later cases, and he contends that he did not receive the benefit of later
10 changes to the process. Appellant argues that the department should be required to implement the
11 BART decision and look at other positions, including Thurston County.

12 13 **V. CONCLUSIONS OF LAW**

14 5.1 The Personnel Appeals Board has jurisdiction over the parties and the subject matter.
15

16 5.2 The right of state merit system employees to appeal to the Personnel Appeals Board (PAB)
17 is provided in RCW 41.06.170(2), which states, in part:

18 Any employee who is reduced, dismissed, suspended, or demoted, after completing
19 his or her probationary period of service as provided by the rules of the board, or any
20 employee who is adversely affected by a violation of the state civil service law,
21 chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal to the
[PAB] ...not later than thirty days after the effective date of such action.

22 5.3 WAC 356-30-012(10) restates the appeal rights of permanent employees for actions that
23 result from background checks “in accordance with RCW 41.06.170(2) and rules promulgated
24 thereunder including WAC 358-20-010 and 358-20-020.” The PAB adopted Ch. 358-20 WAC to
25
26

1 govern appeal filings under rulemaking authority granted by RCW 41.64.060. WAC 358-20-010
2 states:

3 Any permanent employee subject to the statutory jurisdiction of the personnel
4 appeals board who is dismissed, demoted, suspended, reduced in pay, dismissed for
abandonment or given a disability separation may appeal to the personnel appeals
board.

5 WAC 358-20-020 states:

6 An employee who is adversely affected by a violation of the state civil service law
7 (chapter 41.06 RCW) or of the rules promulgated thereunder (Titles 251, 356 and
359 WAC), including rules regarding a layoff or reduction in force, may appeal to
8 the personnel appeals board.

9
10 5.4 Non-disciplinary separation under WAC 356-30-012(5)(e) is not considered a disciplinary
11 action according to WAC 356-30-012(9). Therefore, an appeal of a non-disciplinary separation is
12 an implied allegation that a violation of the laws or rules governing state merit employment has
13 occurred, and that the employee filing the appeal has been adversely affected by that violation.
14 Most appeals from reduction in force or layoff actions (WAC 356-30-330) and all disability
15 separations (WAC-356-35-010) are generically other types of “non-disciplinary separations”
16 authorized under various provisions of the merit system rules, which are similarly implied rule
17 violation appeals.

18 5.5 WAC 358-30-170 establishes the burden of proof for hearings before the Board:

19 At any hearing on appeal from a layoff or reduction in force, dismissal, suspension,
20 demotion, reduction in pay, dismissal for abandonment or disability separation the
21 appointing authority shall have the burden of supporting the charges upon which the
22 action was initiated. At any other hearing, the party filing the action shall have the
burden of proof.

23 Board rules were not amended to address non-disciplinary separations under WAC 356-30-
24 012(5)(e). However, for this and any future hearing on an appeal of a non-disciplinary separation
25 for background check disqualification, the appointing authority has the burden of supporting both
26 the basis for the action taken and compliance with the merit system law(s) or rule(s) governing the

1 action. The Board concludes that this is a reasonable and consistent application of the burden of
2 proof rule and the scope and standard of review for all non-disciplinary separation appeals.

3
4 5.6 The scope of our review here is limited to whether Respondent DSHS' action and
5 application of Personnel Policy 532 complied with WAC 356-30-012. Appellant does not dispute
6 that he has a previous criminal conviction, which was disclosed to DSHS prior to his employment.
7 If a basis for disqualification exists, the Board will not substitute its judgment for BART's
8 evaluation of the character, competence and suitability of Appellant for a covered position.
9 Appellant received notice of his potentially disqualifying record, was given an opportunity to
10 present mitigating evidence for review, and that mitigating evidence was reviewed by BART prior
11 to a final determination that Appellant was disqualified from working in a covered position.

12
13 5.7 After the BART determination that Appellant was disqualified from working in a covered
14 position, Superintendent Mead was responsible for determining which of the actions outlined under
15 WAC 356-30-012(5) would be feasible or appropriate for Appellant. Appellant argues that BART
16 improperly delegated appointing authority to Superintendent Mead to take action. We believe that
17 BART's authority to conduct background checks flows from the Legislature's mandate to the
18 DSHS Secretary to conduct background checks of current employees in RCW 43.20A.710,
19 notwithstanding the language of Personnel Policy 532 conferring "appointing authority" status on
20 BART to make final decisions on appointments, separations and reassignments of employees based
21 on background checks.

22
23 5.8 BART exercises a specific power of the Secretary and performs a limited duty conferred by
24 a statute outside the state civil service law. The Legislature directed the Secretary to conduct
25 background checks of DSHS employees, but did not specify what action should follow the
26 discovery of unfavorable information in an employee's background. The Legislature left the task of

1 integrating this directive with existing merit system employees' due process rights to the
2 Department of Personnel and the Personnel Resources Board. By extension, the right of an
3 employee to appeal places the Personnel Appeals Board in the position to reconcile the intent of the
4 background check law and whether Appellant was afforded due process under the PRB rule as
5 implemented by the Secretary.

6
7 5.9 Under WAC 356-30-007, the head of an agency may delegate the responsibilities and duties
8 of an appointing authority to appoint persons to be employees of their agency. Since all
9 "appointing authority" in DSHS devolves from the Secretary, we conclude that the process through
10 which BART determined Appellant was disqualified from working in a covered position, and
11 Superintendent Mead determined which action would follow, is consistent with the intent of
12 existing merit system rules and WAC 356-30-012, the rule adopted to implement the background
13 check law.

14
15 5.10 Under WAC 356-30-012(5)(g), "interim measures" (such as use of accrued vacation) may
16 be used while the appointing authority "explores the availability of actions." This period of time is
17 not to exceed 30 calendar days except in cases where there are investigations of pending charges.
18 The appointing authority may take any of the actions provided in WAC 356-30-012(5), including
19 job restructuring, job reassignment, voluntary demotion, voluntary resignation, nondisciplinary
20 separation or disciplinary action for cause. WAC 356-30-012(5)(h) states: "When considering the
21 above actions, the agency will consider the least restrictive means necessary to prevent
22 unsupervised access [to vulnerable persons]." We conclude that the rule sets forth the alternatives
23 beginning with the least restrictive (job restructuring) and ending with the most restrictive (non-
24 disciplinary separation and disciplinary action for cause).

1 5.11 Here, Superintendent Mead considered job restructuring and job reassignment. However,
2 all positions at EGCC were covered positions and Superintendent Mead understandably concluded
3 that no viable options existed for Appellant to remain an employee at Echo Glen. Superintendent
4 Mead subsequently decided to separate Appellant from his employment at EGCC effective
5 November 30, 2001. The appointing authority's failure to conduct a vacancy run to determine
6 whether a position existed to which Appellant could voluntarily demote, and the decision to
7 separate Appellant prior to exploring all of the lesser restrictive means to prevent unsupervised
8 access to vulnerable persons violates WAC 356-30-012(5).

9
10 5.12 In similar "non-disciplinary" actions that result in separation from employment such as
11 separation due to disability or layoff due to lack of work, lack of funds or good faith reorganization,
12 employing agencies must conduct on-going, comprehensive and good faith searches for alternative
13 job options. Likewise, to implement the background check requirements, DSHS is required to
14 explore all possible options under the rule prior to deciding to separate an employee from his or her
15 employment.

16
17 5.13 Neither WAC 356-30-012 nor Personnel Policy 532 limits the procedures and/or
18 geographical areas to search for existing vacancies under these circumstances. Furthermore, the
19 rule anticipates that the appointing authority will conduct an active and on-going search of
20 "available actions" during the entire 30-day period. After Appellant had been notified that he was
21 going to be separated, he informed Ms. Thomas of his interest in finding another position and she
22 ran a vacancy search. However, her search was limited to a "snapshot" of vacancies that existed on
23 November 28, 2001 – two days prior to the effective date of his separation. Consequently, the
24 consideration of available options was unduly restrictive and did not afford Appellant a reasonable
25 opportunity to find an alternative position with DSHS.

1 5.14 The Board understands that limited guidance existed in November 2001 to describe the
2 extent of the search for another position that should be undertaken prior to separating an employee.
3 Therefore, the remedy for the rule violations described above will not punitively require full
4 reinstatement and payment of back pay and allowances for the months since Appellant was
5 separated from employment. Rather, DSHS shall conduct an expanded search for all vacancies in
6 positions that are not covered positions and for which Appellant meets the minimum qualifications.
7 This renewed vacancy search shall begin not later than ten days following the date of this order and
8 will continue for a minimum period of 30 days, during which time Appellant shall be afforded all
9 rights and benefits of employment at a salary commensurate with his position prior to separation.

11 VI. ORDER

12 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Anthony Akridge is granted in
13 part and Respondent is directed to conduct an expanded search for all vacancies in positions that are
14 not covered positions and for which Appellant meets the minimum qualifications. This renewed
15 vacancy search shall begin not later than ten days following the date of this order and shall continue
16 for a minimum period of 30 days, or until such time as a position is offered to Appellant, whichever
17 is less, during which time Appellant shall be afforded all rights and benefits of employment at a
18 salary commensurate with his position prior to separation.

19 DATED this _____ day of _____, 2003.

21 WASHINGTON STATE PERSONNEL APPEALS BOARD

22 _____
23 Walter T. Hubbard, Chair

24 _____
25 Gerald L. Morgen, Vice Chair